

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 886

Introduced by Assembly Member Chau

February 26, 2015

An act to amend ~~Section 335 of~~ *Section 5437 of*, and to add *Section 5437.5 to*, the Public Utilities Code, relating to ~~public utilities.~~ *transportation.*

LEGISLATIVE COUNSEL’S DIGEST

AB 886, as amended, Chau. ~~Electricity restructuring: Electricity Oversight Board.~~ *Transportation service network provider: passenger privacy.*

The Passenger Charter-Party Carriers’ Act prohibits a transportation network company from disclosing personally identifiable information of a passenger, except as provided. A violation of the act is a crime.

This bill would prohibit a transportation service network provider, as defined, from requesting or requiring personally identifiable data, as defined, of a passenger unless the information is used for certain purposes, including establishing, maintaining, and updating a customer’s account. The bill would require the transportation service network provider to provide an accountholder with an opportunity to cancel or terminate an account. The bill would require a transportation service network provider to destroy or dispose of all personally identifiable data in a secure manner when the information is no longer needed for the purposes for which it was collected or when an accountholder cancels or terminates his or her account. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law restructured the electrical services industry to provide for the authorization of direct transactions between electricity suppliers and end use customers and for the establishment of an Independent System Operator and a Power Exchange. Existing law establishes the Electricity Oversight Board to oversee the Independent System Operator and the Power Exchange.~~

~~This bill would make various nonsubstantive, technical changes in provisions that establish the Electricity Oversight Board.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 5437 of the Public Utilities Code is*
2 *amended to read:*

3 5437. (a) A transportation network company shall not disclose
4 to a third party any personally identifiable information of a
5 transportation network company passenger unless one of the
6 following applies:

7 (1) The customer knowingly consents.

8 (2) Pursuant to a legal obligation.

9 (3) The disclosure is to the commission in order to investigate
10 a complaint filed with the commission against a transportation
11 network company or a participating driver and the commission
12 treats the information under confidentiality protections.

13 (b) *This section does not apply to personally identifiable*
14 *information of a transportation network passenger collected*
15 *pursuant to Section 5437.5.*

16 SEC. 2. *Section 5437.5 is added to the Public Utilities Code,*
17 *to read:*

18 5437.5. (a) *For purposes of this section, the following terms*
19 *mean the following:*

20 (1) *“Personally identifiable data” means any of the following:*

1 (A) Information that identifies, relates to, describes, or is
2 capable of being associated with, a particular individual, including,
3 but not limited to, his or her name, signature, social security
4 number, physical characteristics, address, email address, telephone
5 number, bank account number, credit card number, debit card
6 number, or any other financial information.

7 (B) Information describing or concerning the duration of the
8 transportation service provided, the location and route of the
9 service provided, and the monetary exchange associated with the
10 service provided.

11 (C) Information relating to the mobile device or computer used
12 to arrange transportation related services, including Internet
13 protocol address (MAC), media access control address, device
14 applications, and geolocation information.

15 (2) "Transportation service network provider" means any
16 corporation, limited liability company, partnership, sole proprietor,
17 or any other entity, operating in California, including,
18 notwithstanding Section 5353, any entity that provides taxicab
19 transportation services, that provides prearranged transportation
20 service for compensation using an online-enabled application or
21 platform to connect to passengers.

22 (b) (1) When rendering transportation services, a transportation
23 service network provider shall not request or require any
24 personally identifiable data of a passenger or accountholder unless
25 the information is required to complete a transaction for the
26 transportation service being provided or for the detection,
27 investigation, or prevention of fraud, identity and other theft, or
28 other criminal activity, and the personally identifiable data is used
29 solely for those purposes.

30 (2) The transportation service network provider shall not
31 disclose any personally identifiable data collected pursuant to this
32 subdivision to any other person, firm, partnership, association, or
33 corporation unless it is required to do so by state or federal law,
34 or is contractually obligated to share the information with a
35 financial entity to complete the transaction, or for the detection,
36 investigation, or prevention of fraud, identity or other theft, or
37 other criminal activity.

38 (c) (1) A transportation service network provider may request
39 or require a consumer to establish an account as a condition of
40 the transportation service and may require a customer to provide

1 *personally identifiable data to establish, maintain, and update the*
2 *account if the information collected is used solely for those*
3 *purposes.*

4 *(2) A transportation service network provider shall provide an*
5 *accountholder with an opportunity to cancel or terminate the*
6 *account at which time the transportation service network provider*
7 *shall destroy or dispose of all personally identifiable data it*
8 *required for the account in a secure manner.*

9 *(d) A transportation service network provider shall destroy or*
10 *dispose of all personally identifiable data it acquires pursuant to*
11 *this section in a secure manner after the information is no longer*
12 *needed for the purposes authorized under this section.*

13 *(e) (1) A transportation service network provider that violates*
14 *this section shall be subject to a civil penalty not to exceed two*
15 *hundred fifty dollars (\$250) for the first violation and one thousand*
16 *dollars (\$1,000) for each subsequent violation.*

17 *(2) The civil penalty shall be assessed and collected in a civil*
18 *action brought by any aggrieved person, the Attorney General, or*
19 *by a district attorney or city attorney of the jurisdiction in which*
20 *an aggrieved person resides.*

21 *(3) The court shall direct the recovery of full costs, including*
22 *attorneys' fees, to the prevailing party.*

23 *(f) (1) The Attorney General, or district attorney or city attorney*
24 *with appropriate jurisdiction, may bring an action in the superior*
25 *court in the name of the People of the State of California to enjoin*
26 *a violation of this section.*

27 *(2) Upon notice of not less than five days to a transportation*
28 *service network provider, the Attorney General, district attorney,*
29 *or city attorney may seek to temporarily restrain and preliminary*
30 *enjoin a violation of this section.*

31 *(3) If the court determines that the transportation service*
32 *network provider has violated this section, the court may restrain*
33 *or enjoin the violation without requiring proof that any person*
34 *has been damaged by the violation.*

35 *(4) In an action brought pursuant to this subdivision, if the court*
36 *finds that a transportation service network provider has violated*
37 *this section, the court may direct the transportation service network*
38 *provider to pay the costs incurred by the Attorney General, district*
39 *attorney, or city attorney.*

1 (g) *The court may consolidate an action for the assessment and*
2 *collection of civil penalties with an action for injunctive relief*
3 *brought pursuant to subdivision (f).*

4 SEC. 3. *No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 ~~SECTION 1. Section 335 of the Public Utilities Code is~~
14 ~~amended to read:~~

15 ~~335. In order to ensure that the interests of the people of~~
16 ~~California are served, a five-member Electricity Oversight Board~~
17 ~~is hereby established, as provided in Section 336. For purposes of~~
18 ~~this chapter, any reference to the Oversight Board shall mean the~~
19 ~~Electricity Oversight Board. Its functions shall be all of the~~
20 ~~following:~~

21 ~~(a) To oversee the Independent System Operator and the Power~~
22 ~~Exchange.~~

23 ~~(b) To determine the composition and terms of service and to~~
24 ~~exercise the exclusive right to decline to confirm the appointments~~
25 ~~of specific members of the governing board of the Power Exchange.~~

26 ~~(c) To serve as an appeal board for majority decisions of the~~
27 ~~Independent System Operator governing board, as those decisions~~
28 ~~relate to matters subject to exclusive state jurisdiction, as specified~~
29 ~~in Section 339.~~

30 ~~(d) Those members of the Power Exchange governing board~~
31 ~~whose appointments the Oversight Board has the exclusive right~~
32 ~~to decline to confirm include proposed governing board members~~
33 ~~representing agricultural end users, industrial end users,~~
34 ~~commercial end users, residential end users, end users at large,~~
35 ~~nonmarket participants, and public interest groups.~~

36 ~~(e) To investigate any matter related to the wholesale market~~
37 ~~for electricity to ensure that the interests of California's citizens~~
38 ~~and consumers are served, protected, and represented in relation~~
39 ~~to the availability of electric transmission and generation and~~
40 ~~related costs, during periods of peak demand.~~

O